



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

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SECRETARY

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Fiscal Note
19A NCAC 02E .0219 Eligibility for Program

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Statutory Authority: G.S. 136-89.56

Impact Summary: State government: Yes
Local government: No
Substantial impact: No

NCDOT is proposing to amend 19A NCAC 02E.0219 Eligibility for Program rule for Logo signing related to attraction services. The proposed amended rule and existing statutory authority can be found in the Appendix. The Department has determined that the rule change will not have an impact on local government funds. In addition, the Department has determined that the rule change will not create a substantial economic impact.

The Logo Program provides eligible businesses with the opportunity to list their business identifications on official highway signs within the right-of-way of fully controlled access highways. The various service types are gas, food, lodging, camping, and attraction. As of today, NC has 14,733 installed logo sign panels, of which, 284 panels are for attraction services. More attraction facilities, particularly in rural areas, could participate in the program but do not meet the hours and days of operations requirement. The proposed changes to 19A NCAC 02E .0219 will allow facilities that have the primary purpose of providing amusement, historical, cultural, or leisure attractions that would not fully meet the qualifying hours and days of operation or distance to have a provisional contract. This provisional contract shall be written with the understanding that if a fully qualifying attraction business or facility applies, and there is no room on the sign for the new business or facility, then the last provisional contract shall be cancelled and the business panel shall be removed at the annual contract renewal date.

The proposed change will allow attraction facilities that do not meet the hours and days of operations, an opportunity to participate in the program only where there is room on a sign. We do not foresee many provisional contracts being offered in urban areas, due to the lack of available space on a sign; however, we do see as much as a 30% increase of attraction panels installed primarily in rural areas (or 2% of total logo program). The expectation is that this rule would create a minimal increase in the number of logo sign applications.

The logo program is cost-neutral, with all paid fees used to maintain existing installations and build new signs and supports statewide. The applicant pays a fee of \$300 per sign per year, and the number of signs needed per attraction usually varies between three and six. The average number of signs needed is four, resulting in \$1,200 on average in annual fee costs. Proposed changes in the rule will not affect the program's cost-neutral status. The additional time to execute a provisional contract is minimal.

19A NCAC 02E .0219 Eligibility for Program is authorized pursuant G.S. 136-89.56 and the Board of Transportation.

Certification of federal requirement is not applicable to this proposed rule change.

APPENDIX

19A NCAC 02E.0219 is proposed for amendment as follows:

19A NCAC 02E .0219 ELIGIBILITY FOR PROGRAM

Businesses may participate in the program provided said businesses comply with the following criteria:

- (1) The individual business installation whose name, symbol or trademark appears on a business panel shall give written assurance of the business's conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, age, disability, or national origin.
- (2) An individual business, under construction, may apply to participate in the program by giving written assurance of the business's conformity with all applicable laws and requirements for that type of service, by a specified date of opening to be within 60 days of the date of application. No business panel shall be displayed for a business which is not open for business and in full compliance with the standards required by the program. A business under construction shall not be allowed to apply for participation in the program if its participation would prevent an existing open business from participating, unless the existing business qualifies for or has a provisional contract.
- (3) Businesses may apply for participation in the program on a first-come, first-served basis until the maximum number of panels on the logo sign for that service is reached. If a business's panel is removed and space is available on the sign, or one or more of the existing businesses have provisional contracts, the first fully qualifying business to contact the Department shall be allowed priority for the vacant space or the space occupied by a business with a provisional contract.
- (4) The maximum distance that a "GAS", "FOOD", or "LODGING" service may be located from the fully controlled access highway shall not exceed three miles at rural interchange approaches and one mile at urban interchange approaches in either direction via an all-weather road. Where no qualifying services exist within three miles (rural) or one mile (urban), provisional contracts are permitted where the maximum distance may be increased to six miles at rural interchange approaches and three miles at urban interchange approaches, provided the total travel distance to the business and return to the interchange does not exceed twelve miles. A rural interchange is defined as an interchange along a freeway (interstate or other fully-controlled access arterial highway) that is located either in a rural unincorporated area or within the corporate limits of a city or town with a population of less than 40,000. An urban interchange is defined as an interchange along a freeway (interstate or other fully controlled access arterial highway) that is located either in or within one mile of the corporate limits of a city or town with a population equal to or greater than 40,000. Provisional contracts shall be written with the understanding that if a closer business applies, qualifies, and is within the three miles (rural) or one mile (urban) distance as applicable, and there is not otherwise room on the sign for the new business, then the provisional contract of the furthest business from the intersection shall be cancelled and the business panels shall be removed at the annual contract renewal date. The maximum distance for a "CAMPING" or "ATTRACTION" service shall not exceed 15 miles in either direction via an all-weather road.

- (5) "GAS" and associated services. Criteria for erection of a business panel on a sign shall include:
 - (a) licensing as required by law;
 - (b) vehicle services for fuel (gas, diesel, or alternative fuels), motor oil, and water;
 - (c) on premise public restroom facilities;
 - (d) an on premise attendant to collect monies, make change, and make or arrange for tire repairs;
 - (e) year-round operation at least 16 continuous hours per day, seven days a week; and
 - (f) on premise telephone available for emergency use by the public.
- (6) "FOOD" service. Criteria for erection of a business panel on a sign shall include:
 - (a) licensing as required by law, and a permit to operate by the health department;
 - (b) businesses shall operate year-round at least eight continuous hours per day six days per week;
 - (c) indoor seating for at least 20 persons;
 - (d) on premise public restroom facilities; and
 - (e) on premise telephone available for emergency use by the public.
- (7) "LODGING" service. Criteria for erection of a business panel on a sign shall include:
 - (a) licensing as required by law, and a permit to operate by the health department;
 - (b) overnight sleeping accommodations consisting of a minimum of 10 units each, including bathroom and sleeping room, except a Lodging business operating as a "Bed and Breakfast" establishment with less than 10 units may participate. "Bed and Breakfast" businesses shall be identified on the Logo signs by a standard message specified by the Department. "Bed and Breakfast" businesses shall only be allowed to participate in the program if the maximum number of qualified Lodging businesses do not request participation in the program and occupy spaces on the Logo signs. All "Bed and Breakfast" businesses shall have provisional contracts;
 - (c) adequate parking accommodations;
 - (d) year-round operation; and
 - (e) on premise telephone available for emergency use by the public.
- (8) "CAMPING" service. Criteria for erection of a business panel on a sign shall include:
 - (a) licensing as required by law, including meeting all state and county health and sanitation codes and having water and sewer systems which have been duly inspected and approved by the local health authority (the operator shall present evidence of such inspection and approval);
 - (b) at least 10 campsites with accommodations (including on premise public restroom facilities in a permanent structure) for all types of travel-trailers, tents and camping vehicles;
 - (c) adequate parking accommodations;
 - (d) continuous operation, seven days a week during business season;
 - (e) removal or masking of said business panel by the department during off seasons, if operated on a seasonal basis; and
 - (f) on premise telephone available for emergency use by the public.
- (9) "ATTRACTION" service. Criteria for erection of a business panel on a sign for any business or establishment shall include:
 - (a) licensing as required by law;
 - (b) on premise public restroom facilities in a permanent structure;

- (c) continuously open to the motoring public without appointment at least eight hours per day, five days per week during its normal operating season or the normal operating season for the type of business; where room is available on the sign and a business exists that does not meet the qualifying hours and days of operations or distance, a provisional contract is permitted. Provisional contracts shall be written with the understanding that if a fully qualifying business applies and there is not otherwise room on the sign for the new business, then the provisional contract of the business last on the sign shall be cancelled and the business panel shall be removed at the annual contract renewal date. It is the responsibility of the businesses with provisional contracts to update their contracts to non-provisional contracts (if they meet all qualifications) prior to receiving notice of cancellation. The contract in place on the date NCDOT receives a completed application from a fully qualified business will be the contract used for the decision making purpose.
- (d) adequate parking accommodations;
- (e) on premise telephone available for emergency use by the public; and
- (f) only facilities whose primary purpose is providing amusement, historical, cultural, or leisure activities to the public and are categorized as follows shall be allowed signing:
- (i) Amusement Parks: Permanent areas open to the general public including at least three of the following activities: roller coasters, entertainment rides, games, swimming, concerts, and exhibitions;
 - (ii) Cultural Centers or Facilities: Locations for cultural events including museums, outdoor theaters, or a facility that exhibits or sells antiques or items painted or crafted by local artists;
 - (iii) Historic Sites: Buildings, structures, or areas listed on the national or state historic register and recognized by the Department as historic attractions or locations;
 - (iv) Leisure or Recreation Activity Areas: Attractions that provide tourists with opportunities such as golfing (excluding miniature golf, driving ranges, chip and putt areas, and indoor golf), horseback riding, wind surfing, skiing, bicycling, boating, fishing, picnicking, hiking, and rafting;
 - (v) Manufacturing Facilities: Locations that manufacture or produce products of interest to tourists and offer tours at least four times daily on a regularly scheduled year-round basis such as candy, ice cream, cookie, or pickle manufacturing facilities. Facilities shall produce or manufacture and exhibit or sell their products at the facilities.
 - (vi) Agricultural Facilities: Locations that provide tours and exhibit or sell their agricultural products or provide on-site samples of their products, such as vineyards and regional farmers markets;
 - (vii) Zoological or Botanical Parks and Farms: Facilities that keep living animals or plants and exhibit them to the public;
 - (viii) Natural Phenomena: Naturally occurring areas that are of outstanding interest to the public, such as waterfalls or caverns; and
 - (ix) Motor Sports Facilities: Locations including museums, race tracks, and race team headquarters that exhibit or sell items related to automobile or truck racing.

- (10) Any other "ATTRACTION" not listed in Item (f) of this Rule shall be approved by the State Traffic Engineer.
- (11) Ineligible Attractions include, but are not limited to, shopping malls, furniture stores, drug stores, movie theaters; community business, historic, antique, or other districts; appliance stores, automobile or truck dealerships or garages, houses of worship, colleges, schools, real estate offices, sand and gravel facilities, produce stands, nurseries, grocery stores, restaurants, bars, lounges, adult establishments, and adult video, book, and novelty stores. An attraction is not eligible for both Travel Services (Logo) Signing and supplemental guide signing, such as Agriculture Tourism signing, at the same interchange.

History Note: Authority G.S. 136-89.56; 136-137; 136-139; 143B-346; 143B-348; 143B-350(f); 23 C.F.R. 750,

Subpart A; 23 U.S.C. 131(f);

Eff. April 1, 1982;

Amended Eff. August 1, 1998; April 1, 1994; October 1, 1993; December 1, 1992; October 1, 1991;

Temporary Amendment Eff. October 13, 2003;

Amended Eff. January 1, ~~2004~~2004; June 1, 2014.

§ 136-89.56. Commercial enterprises.

No commercial enterprises or activities shall be authorized or conducted by the Department of Transportation, or the governing body of any city or town, within or on the property acquired for or designated as a controlled-access facility, as defined in this Article, except for:

- (1) Materials displayed at welcome centers which shall be directly related to travel, accommodations, tourist-related activities, tourist-related services, and attractions. The Department of Transportation shall issue rules regulating the display of these materials. These materials may contain advertisements for real estate; and
- (2) Vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. In order to permit the establishment of adequate fuel and other service facilities by private owners or their lessees for the users of a controlled-access facility, the Department of Transportation shall permit access to service or frontage roads within the publicly owned right-of-way of any controlled-access facility established or designated as provided in this Article, at points which, in the opinion of the Department of Transportation, will best serve the public interest. The location of such fuel and other service facilities may be indicated to the users of the controlled-access facilities by appropriate signs, the size, style, and specifications of which shall be determined by the Department of Transportation.

The location of fuel, gas, food, lodging, camping, and attraction facilities may be indicated to the users of the controlled-access facilities by appropriate logos placed on signs owned, controlled, and erected by the Department of Transportation. The owners, operators or lessees of fuel, gas, food, lodging, camping, and attraction facilities who wish to place a logo identifying their business or service on a sign shall furnish a logo meeting the size, style and specifications determined by the Department of Transportation and shall pay the Department for the costs of initial installation and subsequent maintenance. The fees for logo sign installation and maintenance shall be set by the Board of Transportation based on cost. (1957, c. 993, s. 9; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1; 1981, c. 481, s. 1; 1983, c. 604, s. 1; 1985, c. 456; c. 718, ss. 2, 3, 6; 1987, c. 417, s. 2; 1996, 2nd Ex. Sess., c. 18, s. 19.10(b); 1997-443, s. 11A.118(a); 2003-184, s. 2.)